

## CHAPTER XV

### UTILITY BOARD.

SECTION 15.00. (Utility board created). A public utility board is hereby created to control, manage, and operate the public utility systems of the city as hereinafter provided. The board shall consist of five members. Four members shall be appointed by the mayor and confirmed by the common council from among the resident citizens of the city. No person who holds another public office or who is an employee of the city shall serve as a resident citizen member. The term of office of each resident citizen shall be four years. One member shall be appointed by the common council from among its own membership and the term of office of such member shall be two years. All terms shall begin and expire on the second Tuesday in January, except that any term of office in effect on January 1, 1996, shall be extended to the second Tuesday in January of the year following the term's original expiration date.

SECTION 15.01. (Appointment). If the board member appointed by the common council ceases to be a member of the common council, he shall be deemed to have vacated his office as a member of the public utility board. Appointments may be made at any time to fill a vacancy for an unexpired term by the mayor to those offices to which it is his duty to appoint and by the common council to the office to which it is the common council's duty to appoint.

SECTION 15.02. (Oath; compensation). Each person so appointed shall file a written oath and acceptance with the city clerk before entering upon the discharge of the duties of his office. No bond shall be required.

SECTION 15.03. (Conduct of meetings; appointment of secretary). The board shall elect from among its members a president who shall preside over the meetings of the board. An election of the president and such other offices as the board may deem appropriate shall be held annually at the first regular meeting following the appointment of a new member for a full term. The board shall also annually appoint a secretary who shall not be a member of the board. The board shall adopt rules for the conduct of its affairs and for the removal of its elective officers with or without cause. No action shall be taken by the board except by the affirmative vote of at least three members. Three members shall constitute a quorum.

SECTION 15.04. (City utility system). The city may acquire, construct, reconstruct, improve, extend, operate, and maintain facilities for the production and distribution of water, electricity, and heat. It may dispose of any such public utility system on a vote of a majority of the electors thereof. It may furnish water, electricity and heat for all municipal purposes and may sell and supply the same to public and private customers within and without the corporate limits of the city. It may enter into a contract for a term not exceeding 40 years with any person, firm or corporation to supply the city with water, electricity, and heat to be sold and supplied to others. Such contract shall be made by the common council after receiving a report thereon from the public utility board and may be made without advertising for bids or following the provisions of chapter Twelve of this charter.

SECTION 15.05. (Board Powers). Subdivision I. The public utility board shall control, manage, and operate the electric and steam heat facilities and distribution systems of the city. Any other public utility of the city may be placed under the control, management, and operation of the board with such limitation on its powers and duties relating thereto as the common council may provide by ordinance. The board shall not provide any public utility service to customers outside the assigned utility service area except as approved by the common council.

Subd. 2. The public utility board may create such departments and divisions for the administration of its affairs as it may deem necessary and from time to time alter their duties and organization. The board may appoint, employ and remove a general manager subject to any employment procedures established by this charter or the common council. The board shall conduct the general manager's annual performance evaluation and establish the general manager's compensation consistent with the council-approved compensation parameters. The board may delegate the performance review and compensation setting authority to the city administrator if it deems that appropriate. The general manager shall employ and remove such other employees as are authorized by the common council to perform the functions of the department. These other employees are subject to all employment policies and procedures established by the charter or the common council. (Amended by Ord. No. 4076 on July 12, 2012)

Subd. 3. The public utility board may adopt, amend, and rescind such rules and regulations as it may deem necessary for the control, management, and operation of the public utilities under its jurisdiction. The board shall, with the concurrence of the common council, fix the rates to be charged for the availability and use of the public utility commodities and services under its jurisdiction. Rates shall be reasonable and compensatory so as to cover all of the costs of the respective public utility and shall be uniform for all consumers within the same class, but different rates may be established for different classifications by the board. Rates within the city corporate limits may be less but shall be no greater than rates for the same classification outside the city limits.

Subd. 4. The board is authorized and required to restrain and prevent, so far as possible, any and all waste of water, electricity, heat power and other public utility service provided by the board, and may for non-payment of charges or other cause, shut off any utility service, or take other action relating thereto that it deems proper. Other action shall include, but is not limited to, charging the amounts owed against the premises to which service has been provided. Any claim for unpaid service which has been properly billed to the responsible party may be certified to the county auditor with the taxes against the property served, to be collected as other taxes are collected. The person or entity that contracted for utility service, which may include the owner, lessee or occupant of the premises, is also personally liable for utility charges, but no lien shall be placed on a landlord's property where a tenant contracted for service pursuant to Minn. Stat. § 325E.026, Subd. 2. (Amended by ordinance, effective August 10, 1996).

SECTION 15.06. (Street lighting). The city shall pay a reasonable rate fixed by the public utility board for all public lighting for streets and for other public utility services supplied by the board, but no higher rate shall be charged therefore than that charged private parties.

SECTION 15.07. (Contracts). Subdivision 1. The public utility board, in its sole discretion and as it deems necessary, may perform the following actions: (A) subject to Subd. 2, acquire such real and personal property, or any interest therein; (B) enter into any contract, so long as the board's approved annual budget contains an appropriation to pay the contract amount; (C) enter into any contract when the board's approved annual budget does not contain an appropriation to pay the contract amount so long as the contract amount is less than \$100,000.00; and (D) enter into a contract for the sale of real property, or any interest therein, if (1) the amount of the contract is \$100,000.00 or less, and (2) the board provides advance notice to the city administrator of its intent to execute the contract.

Subd. 2. The public utility board, with authorization by resolution of the Common Council, may enter into a contract if the contract: (A) involves a capital appropriation which is not contained within the board's approved annual budget and exceeds the amount of \$100,000.00; (B) involves the sale or purchase of real or personal property in an amount greater than \$100,000.00; or (C) establishes any officer's salary or employee's wage.

Subd. 3. All of the public utility board contracts must be drafted in the name of the City, signed by the mayor and attested by the city clerk. (Ord. #2603, 8/2/88; 3421, 9/18/01)

SECTION 15.08. Repealed by Ordinance No. 2603, 8/2/88.

SECTION 15.09. (Procedures and Record). The public utility board shall establish procedures and practices consistent with requirements of the Common Council and the director of finance to coordinate and integrate practices and procedures into the accounting system for general City government. The board shall provide for keeping records and accounts as may be necessary to show the financial conditions of the electric and water utilities in accordance with legal requirements, generally accepted accounting principles and utility industry reporting requirements. The board shall issue an annual report for the preceding year representing the financial condition of the public utility, provide for an annual audit as authorized by the Common Council, and prepare an annual budget to be approved by the Common Council upon recommendation of the board. (Ord. 2603, 8/2/88; 3421, 9/18/01)

